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Staff recommendation on consistency certification no. CC 24-79 : Restore Container Repair and Storage Company / Michael B. Wilmar.

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SEP 13 1979

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August 27, 1979

TO: All Commissioners and Alternates
FROM: Michael B. Wilmar, Executive Director

SUBJECT: STAFF RECOMMENDATION ON CONSISTENCY CERTIFICATION NO. CC 24-79; RESTORE CONTAINER REPAIR AND STORAGE COMPANY
(For Commission consideration on September 6, 1979)

The staff recommends the adoption of the following resolution:

The Commission CONCURS with Consistency Certification No. CC 24-79, of the Restore Container Repair and Storage Company, as limited below. The findings upon which this decision is based are contained herein.

I. Work and Uses Proposed

The Restore Container Repair and Storage Company requests concurrence in Consistency Certification No. CC 24-79 that the uses and activities proposed in the lease of portions of the total available 30-acre area of the Oakland Army Base (Items 1 and 2 in the lease bids) are consistent with the Commission's Management Program for San Francisco Bay, as approved by the U. S. Department of Commerce, pursuant to the Federal Coastal Zone Management Act of 1972, as amended.

The proposed lease would include a 3.63-acre open hardstand area, within which Restore Container Repair and Storage Company would place two office trailers and five equipment storage sheds, all of which are mobile. A 7,200-square-foot pre-fabricated shed for storage purposes would also be erected. The proposed uses and activities of the lease area would be the storage, inspection, and repair of ocean cargo containers and chassis involved in the transportation of cargo through the Port of Oakland.

II. Findings and Declarations

A. Federal Coastal Zone Management Act of 1972, As Amended. Under Section 307(c)(3) of the Federal Coastal Zone Management Act of 1972, as amended, "any applicant for a required federal license or permit to conduct an activity affecting land or water uses in the coastal zone of [a] state" must submit a certification to the State that the proposed activity is consistent

with the State's approved coastal zone management program. The proposed lease by the Department of the Army of portions of the Oakland Army Base is a "federal license or permit" for which Commission concurrence in the certification is necessary.

In its Management Program, approved by the U. S. Department of Commerce, the Commission defined its segment of the California coastal zone to be the area of BCDC's permit jurisdiction. Although the proposed lease area lies outside the area of BCDC's permit jurisdiction, it does lie within an area designated in the Bay Plan for port and related industrial uses. These and similar priority use designations were placed in the Bay Plan (which is the core of the Commission's Management Program) to reduce future pressures for filling the Bay by reserving shoreline sites particularly well-suited for the high priority, water-oriented uses identified in the Bay and the BCDC law. Therefore, the Commission hereby finds that the proposed lease of portions of the Oakland Army Base that are designated for port and related industrial uses will clearly "affect" the BCDC segment of the coastal zone because non-port and related industrial uses of the subject property will increase future pressures to fill the Bay.

B. The San Francisco Bay Plan. The Commission concurs that the proposed uses and activities contained in the bid of Restore Container Repair and Storage Company are consistent with the Commission's Management Program. The uses and activities constitute port or related industrial activities and are, therefore, consistent with the applicable Bay Plan policies and the priority use designation for the Oakland Army Base.

1. Bay Plan Policies and Map. Bay Plan Policy No. 6 on Ports (page 20) states, in part, that "Port areas on the shores of the bay should be able to include within their premises marine terminals and directly-related ancillary activities such as warehousing and other temporary storage, ship repairing, support transportation uses including trucking and railroad yards, freight forwarders, government offices related to the port activity, chandlers and marine services...." Furthermore, Bay Plan Policy No. 5 on Ports (page 20) requires that any additional port facilities required for special ship-to-train transferring, such as those now needed for container operations, should be provided with as little filling as possible. Bay Plan Map No. 4, as amended November 18, 1971, designates the proposed lease area for port-priority use. A Plan Map note states: "Oakland Army Base and Naval Supply Center - Some fill may be needed for Army Base. If and when not needed by military, first consider port and related industrial uses."

2. Consistency of the Proposed Bid. The proposed uses and activities of the Restore Container Repair and Storage Company would involve the storage, inspection, and repair of containers and chassis used for ocean transport. Because these uses and activities consist of temporary storage, support transportation uses, and related marine services needed to transfer cargoes to and from port areas, the Commission finds that this proposed use is a directly-related ancillary activity to marine terminal uses of the Port of Oakland. The use of portions of the total lease area for these activities

will reduce pressues for further fill at the Port by permitting the expansion of supporting facilities of the Port at inland locations. Therefore, the Commission finds that the uses and activities proposed herein are consistent with the San Francisco Bay Plan, the McAteer-Petris Act, and the Commission's Management Program.

The consistency certification concurred with herein is for, and only for, the uses proposed for the lease areas by the Restore Container Repair and Storage Company. While other uses not included in the certification may be consistent with the Commission's Management Program, such uses are not included in this concurrence and it is limited to the uses specifically proposed. If a Federal lease were obtained by the Restore Container Repair and Storage Company that authorizes uses other than those certified herein, the Commission's ability to ensure compliance with this determination will be limited to costly and time consuming litigation and will require continual inspection of areas beyond the boundaries of the Commission's permit jurisdiction. This would burden the Commission's existing enforcement capabilities and would interfere with the administration of its Management Program. Therefore, the Commission specifically finds and declares that its concurrence with this consistency certification is limited to the issuance by the Army of a lease that:

a. Restricts the authorized uses of the leased premises to those uses specified in the consistency certification; and

b. Is subject to termination upon use for any other purpose unless another consistency certification is concurred in by or on behalf of the Commission authorizing such uses.

C. Environmental Impact. Pursuant to the California Environmental Quality Act of 1970, and the Commission's Regulations, the Commission analyzed this concurrence in terms of the possible impacts on the environment. No significant short- and long-term adverse environmental impacts of this concurrence have been identified. No reasonable project alternatives were found which would have less adverse impact on the environment. In fact, by limiting the use of the proposed lease area to port-related activities, a beneficial environmental impact will occur in that such limitation would reduce the pressures for filling the Bay at the Port of Oakland. Furthermore, concurrence in this consistency certification would not cause an irreversible environmental change. Moreover, the Commission's concurrence, as limited herein, will provide that the uses and activities to occur in the leased area will be in conformance with the Commission's Management Program. Therefore, the Commission finds that this concurrence will not have a significant adverse impact on the environment.

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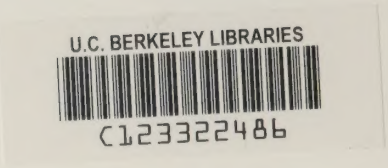

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